

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:18 cr 9-2**

UNITED STATES OF AMERICA)
)
v.)
)
DENISE ANN SMITH,)
)
Defendant.)
)

ORDER

Before the Court is the ‘Unopposed’ Motion to Quash Subpoena [1:18-cr-9-1 # 55].

On June 20, 2018, the Court granted Defendant Smith’s Ex Parte Motion for Subpoena [1:18-cr-9-2 # 48]. The subpoena directed Defendant Smith’s co-defendant Brandon Patrick Randall to appear and testify before the Court on July 12, 2018. Defendant Randall now moves to quash the subpoena because he intends to invoke his Fifth Amendment right against self-incrimination. For the following reasons the Court has determined to set a hearing on the Motion:

1. While Defendant Randall has averred that he has conferred with the Government, Defendant Randall has not stated whether he has conferred with Adam Queen or American Tactical & Pawn—both now interested parties.
2. Upon reviewing the law Defendant Randall has cited, it appears the cases relate to jury trials. This is a hearing presided over by the Court.
3. Defendant Randall’s inconvenience has no bearing on this hearing.
4. Defendant Randall filed the Motion to Quash in the wrong case. The subpoena was issued in Defendant Smith’s case, so the Motion to Quash [# 55] should have been

filed there.

Accordingly, the Court **ORDERS** this Motion [# 55] to be heard on **July 12, 2018, at 9:00 am, in Courtroom 2, 100 Otis Street, Asheville, NC 28806**. The Court **ORDERS both** Defendant and his counsel be present.

Signed: July 6, 2018

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

